

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
Reply to Office Action of December 22, 2004

... REMARKS/ARGUMENTS ...

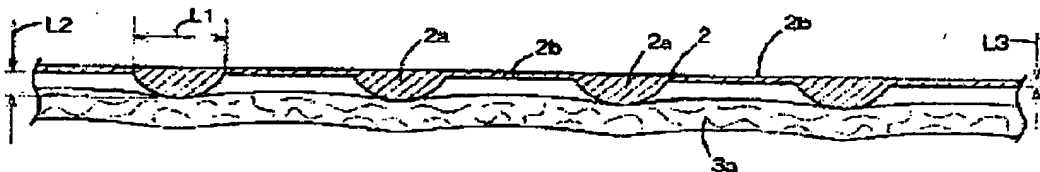
The Official Action of December 22, 2004 has been thoroughly studied. Accordingly the following remarks are believed to be sufficient to place the application into condition for allowance.

Claims 1-19 are pending in this application.

Claims 12, 14 and 16 stand rejected under 36 U.S.C. §112, first paragraph.

Under this rejection the Examiner has taken the position that the "[t]he specification as originally filed does not provide support for the limitation that the cross-section of the bulgy areas is non-hollow."

Here is a copy of Fig. 2 which was originally stated to be a sectional view of Fig. 1 taken along section lines A-A:



The Examiner will note that bulgy zones 2a are depicted as being solid or non-hollow.

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
Reply to Office Action of December 22, 2004

Here is an enlarged portion of Fig. 1:



The Examiner will note that the bulgy zones are depicted as being solid or non-hollow throughout the composite sheet.

It is accordingly submitted that the original specification (which includes the originally filed drawings) supports the recitation in claims 12, 14 and 16 that the "plurality of bulgy structural zones are non-hollow."

It is noted that 35 U.S.C. §112, first paragraph requires that:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

It is submitted that applicant's specification includes a written description that would enable one skilled in the art to make the bulgy zones non-hollow or solid.

Therefore the limitations of claims 12, 14 and 16 are believed to satisfy the requirements of 35 U.S.C. §112, first paragraph.

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
Reply to Office Action of December 22, 2004

The Examiner is accordingly requested to favorably reconsider and withdraw the rejection of claims 12, 14 and 16 under 35 U.S.C. §112, first paragraph.

Claims 1, 2, 4, 9 and 10, 11, 13 and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,882,769 to McCormack et al.

Claims 1-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McCormack et al. in view of U.S. Patent No. 5,244,716 to Thornton et al. in view of U.S. Patent No. 4,908,263 to Reed et al.

For the reasons set forth below, it is submitted that all of the pending claims are distinguishable and allowable over the prior art on record and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

In the paragraph bridging pages 2 and 3 of the Official Action the Examiner states:

Applicant argues that the portion of the structure of McCormack which corresponds to the substantially flat zones were not pointed out in the previous action. However, the areas which form the bonds correspond to the substantially flat zones. The bonding can be in the form of lines which extend in parallel across the laminate, see fig. 1 and col. 7, lines 1-3. Further, with regard to McCormack, either of the two layers 12, 14 in fig. 1 can be film or nonwoven. Therefore, the layer 12 can be a nonwoven and layer 14 can be the nonwoven layer. Therefore, the areas where the two or more layers are bonded correspond to the claimed substantially flat zones.

The Examiner's interpretation that the areas which form the bonds [in McCormack et al.] correspond to the substantially flat zones is inconsistent with the recited structure in applicant's independent claim 1.

Appl. No. 09/941,096

Amdt. Dated March 22, 2005

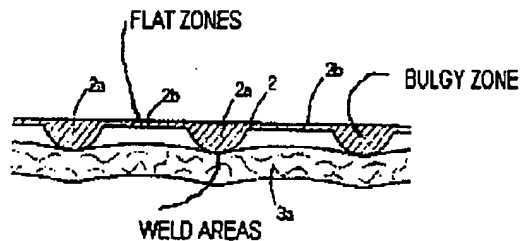
Reply to Office Action of December 22, 2004

Accordingly, by the Examiner's own interpretation McCormack et al. fails to render applicant's claimed invention obvious.

Independent claim 1, requires, in part:

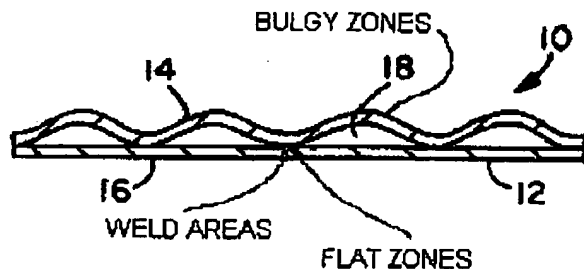
- 1) "substantially flat zones extending continuously between adjacent ones of the bulgy structural zones;" and
- 2) "said thermoplastic synthetic resin film being welded along said bulgy structural zones to said thermoplastic synthetic resin fibrous sheet."

These limitations are consistent with applicant's Fig. 2:



If one attempted to apply the Examiner's interpretation of McCormack et al. using applicant's claim language the following would result:

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
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Since the Examiner has interpreted that the areas which form the bonds [in McCormack et al.] correspond to the substantially flat zones, they necessarily correspond to the weld zones (since these are the only points of contact between the two layers).

However, applicant's independent claim 1 requires, in part:

- 1) "substantially flat zones extending continuously between adjacent ones of the bulgy structural zones;" and
- 2) "said thermoplastic synthetic resin film being welded along said bulgy structural zones to said thermoplastic synthetic resin fibrous sheet."

If, according to applicant's claim limitations, the flat zones are between adjacent flat zones and the layers are welded at (or along) the bulgy zones, then the flat zones cannot correspond to the weld zone (the outcome of the Examiner's interpretation of McCormack et al.) or else they would correspond to the bulgy zones and therefore not be "between adjacent ones of the bulgy structural zones" as required by applicant's independent claim 1.

It therefore follows that the Examiner's interpretation of McCormack et al. is inconsistent with the recited structure in applicant's independent claim 1.

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
Reply to Office Action of December 22, 2004

McCormack et al. according to the Examiner's interpretation, fails to meet the limitations of applicant's independent claim 1 and therefore does not anticipate applicant's claimed invention.

The Examiner has relied upon Thornton et al as teaching a polyurethane film having a specific WVTR.

This further reliance upon Thornton et al. does not address or overcome the structural differences and distinctions between applicant's claimed invention and McCormack et al.

Accordingly, the combination of McCormack et al. and Thornton et al. does not render applicant's claimed invention obvious under 35 U.S.C. §103.

The Examiner has cited Reed et al. on page 3 of the Official Action as being relied upon in combination with McCormack et al. and Thornton et al.

However, the Examiner has not set forth any specific reliance upon Reed et al. nor any proposed modification of McCormack et al. based upon the teachings of Reed et al.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

Moreover, it is submitted that the Examiner cannot properly rely upon the prior art under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

Appl. No. 09/941,096
Amdt. Dated March 22, 2005
Reply to Office Action of December 22, 2004

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

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